

AUG 31 2001

STATE OF ARIZONA  
DEPARTMENT OF INSURANCEDEPT. OF INSURANCE  
BY                     

In the Matter of:

) Docket No. 01A-208-INS

**CONSECO LIFE INSURANCE COMPANY**) **CONSENT ORDER**

NAIC #65900;

**Respondent.**

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Conseco Life Insurance Company ("Conseco"). The Report of the Examination of the Market Conduct Affairs of Conseco alleges that Conseco has violated A.R.S. §§20-297, 20-311, 20-443, 20-448.01, 20-461, 20-462, 20-485.01, 20-2104, 20-2110, 20-2113 and A.A.C. R20-6-211, R20-6-215, R20-6-801 and R20-6-1203.

Conseco wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

**FINDINGS OF FACT**

1. Conseco is authorized to transact life and disability insurance pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of Conseco. The on-site examination covered the time period from September 1, 1999 through August 31, 2000 and was concluded on December 20, 2000. Based on the findings the Examiners prepared the "Report of Examination of the Market Conduct Affairs of Conseco Life Insurance Company" dated December 20,

1 2000.

2 3. The Examiners found that Conseco conducted a marketing campaign  
3 wherein the Company solicited and disclosed personal and privileged information about  
4 individuals collected in connection with insurance transactions.

5 4. Conseco failed to file with the Department a list of its active agents by  
6 January 30, 2000.

7 5. The Examiners reviewed 30 files identified as having been transacted by  
8 agents not licensed in Arizona and found that the Company paid commissions to the  
9 agents following the transaction of insurance involving residents of Arizona.

10 6. The Examiners reviewed 97 of 692 life insurance policies issued and 32 of  
11 32 life insurance applications declined by the Company during the time frame of the  
12 examination and found as follows:

13 a. Conseco failed to provide applicants with a Summary of Rights  
14 that contained procedures for individual access to recorded personal information.

15 b. Conseco failed to provide a complete Policy Summary containing  
16 the agent's name and address, the full name and home office address of the Company,  
17 the annual premium for each optional rider and the policy loan interest rate specifying  
18 whether the rate is applied in advance or in arrears.

19 c. Conseco failed to obtain a consent form in a form as prescribed by  
20 the Director, signed prior to the performance of HIV-related tests, on 11 applicants.

21 d. Conseco failed to provide four applicants with a Notice of Insurance  
22 Information Practices.

23 e. Conseco failed to require a statement signed by the agent on four files as  
24 to whether or not such insurance will replace existing life insurance.

25 f. Conseco, as a replacing insurer, failed to require from the agent in 17



1 files a copy of all sales proposals used in the presentation.

2 9. The Examiners reviewed 56 of 90 life insurance replacement contracts  
3 issued and found as follows:

4 a. Conseco, as replacing insurer, failed to require from agents in six files the  
5 Notice Regarding Replacement of Life Insurance, signed by the applicant and in the  
6 form prescribed by the Arizona Administrative Code.

7 b. Conseco, as replacing insurer, failed to require from the agent in 45 files  
8 a copy of all sales proposals used in the presentation.

9 c. Conseco failed, as replacing insurer, to provide a Policy Summary that  
10 included all the required elements to 48 applicants at or prior to delivery of the life  
11 insurance policy.

12 10. The Examiners reviewed six of six annuity death claims, 31 of 31 individual  
13 life insurance paid death claims and five of five individual life "unsettled" claims  
14 processed during the time period of the examination and found as follows:

15 a. Conseco failed to send an acknowledgement notice or to make payment  
16 to three claimants within 10 working days after receiving notice of a claim.

17 b. Conseco failed to provide claim forms for two first party claimants within  
18 ten working days after notification of a claim.

19 c. Conseco failed to advise seven first party claimants of the acceptance or  
20 denial of claims within fifteen working days after receipt of properly executed proofs of  
21 loss and failed to notify the claimants of the Company's reasons or need for additional  
22 time to investigate claims to determine if Conseco should accept or deny the  
23 respective claims.

24 d. Conseco failed to complete investigation of three claims within 30 days  
25 after notification of claim.

1 e. Conseco failed to maintain in four claim files all notes and work papers in  
2 such detail that all pertinent events and dates could be reconstructed.

3 f. Conseco failed to pay interest, at the legal rate, from the date a claim  
4 was received on two claims where the claim was not paid within 30 days after receipt  
5 of properly executed proofs of loss.

6 11. Conseco's failure to pay interest on claims not paid within 30 days after  
7 receipt of properly executed proofs of loss resulted in two claimants being underpaid a  
8 total of \$87.91. The two claimants have since been repaid the interest owed.

### 9 CONCLUSIONS OF LAW

10 1. Conseco violated A.R.S. §20-2113(11)(a) by soliciting and disclosing  
11 personal and privileged information about individuals collected in connection with  
12 insurance transactions.

13 2. Conseco violated A.R.S. §20-297 by failing to file a list of its agents prior to  
14 January 30, 2000.

15 3. Conseco violated A.R.S. §20-311(A) by paying commissions to agents who  
16 were not licensed in Arizona at the time they transacted business with Arizona  
17 residents.

18 4. Conseco violated A.R.S. §20-2110(A) by failing to provide the applicant with  
19 a Summary of Rights in the event of an adverse underwriting decision.

20 5. Conseco violated A.R.S. §20-443(1), A.A.C. R20-6-211(E)(1) and  
21 A.A.C. R20-6-211(G) by failing to deliver or provide a complete Policy Summary, which  
22 constitutes an omission misrepresenting the benefits, advantages, conditions or terms  
23 of an insurance policy.

24 6. Conseco violated A.A.C. R20-6-801(E)(1) and A.R.S. §20-461(A)(2) by  
25 failing to send an acknowledgement notice or to make payment to the claimant within



1 10 working days after receiving notice of a claim.

2 7. Conseco violated A.A.C. R20-6-801(E)(4) by failing to provide claim forms to  
3 first party claimants within 10 working days after receiving notice of a claim.

4 8. Conseco violated A.A.C. R20-6-801(F) and A.R.S. §20-461(A)(3) by failing to  
5 complete the investigation of claims within 30 days after notification of the claims.

6 9. Conseco violated A.A.C. R20-6-801(G)(1)(a) and A.R.S. §20-461(A)(5) by  
7 failing to notify the first party claimant of the acceptance or denial of the claim within  
8 15 working days after receipt of an acceptable proof of loss.

9 10. Conseco violated A.A.C. R20-6-801(G)(1)(b) and A.R.S. §20-461(A)(3) by  
10 failing to advise first party claimants, within 15 working days after receipt of an  
11 acceptable proof of loss, of the reasons why more time was needed to determine if the  
12 claim would be accepted or denied.

13 11. Conseco violated A.R.S. §20-462(A) by failing to pay interest at the legal  
14 rate, from the date the claim was received by the Company, on all claims not paid  
15 within 30 days after receipt of an acceptable proof of loss.

16 12. Conseco violated A.R.S. §20-448.01(B) and A.A.C. R20-6-1203(B) and (C)  
17 by failing to use an HIV-related test consent form that is in a form as prescribed by the  
18 Director and signed prior to the performance of the HIV-related test.

19 13. Conseco violated A.R.S. §20-2104(A)(1) by failing to provide applicants with  
20 a Notice of Insurance Information Practices.

21 14. Conseco violated A.A.C. R20-6-215(F)(2)(b) by failing, as the replacing  
22 insurer, to require a statement signed by the agent as to whether or not such insurance  
23 will replace existing insurance.

24 15. Conseco violated A.A.C. R20-6-215(F)(3)(a) by failing, as the replacing  
25 insurer, to require from agents a copy of all sales proposals used in their presentations.

1 16.Conseco violated A.A.C. R20-6-215(F)(3)(a) by failing, as the replacing  
2 insurer, to require from agents a Notice Regarding Replacement of Life Insurance  
3 signed by the applicant.

4 17.Conseco violated A.A.C. R20-6-215(F)(3)(b) by failing, as the replacing  
5 insurer, to provide the applicant with a Policy Summary that included all required  
6 provisions.

7 18.Conseco violated A.A.C. R20-6-801(C) by failing to maintain claim files with  
8 all notes and work papers pertaining to the claim in such detail that the pertinent events  
9 and dates of such events can be reconstructed.

10 19.Grounds exist for the entry of the following Order, in accordance with  
11 A.R.S. §§ 20-220, 20-456 and 20-2117.

12 **ORDER**

13 **IT IS ORDERED THAT:**

14 1. Conseco shall cease and desist from:

15 a. Unlawfully disclosing personal and privileged information about  
16 individuals collected in connection with insurance transactions.

17 b. Paying commissions to agents unlicensed in Arizona at the time of an  
18 insurance transaction involving residents of Arizona.

19 c. Failing to provide applicants with a Summary of Rights in the event of an  
20 adverse underwriting decision.

21 d. Failing to provide a Policy Summary containing all of the elements  
22 required by the Arizona Administrative Code to policyowners at or prior to delivery of a  
23 life insurance policy.

24 e. Failing to send an acknowledgement or to make payment to a claimant  
25 within 10 working days after receiving notice of a claim.



1 f. Failing to provide claim forms for first party claimants within 10 working  
2 days after notification of a claim.

3 g. Failing to complete investigations of claims within 30 days after  
4 notification of a claim.

5 h. Failing to accept or deny claims within 15 working days after receipt of  
6 proof of loss.

7 i. Failing to advise the claimant, within 15 working days after receipt of  
8 proof of loss, of the reasons why more time is needed to determine if the claim would  
9 be accepted or denied.

10 j. Failing to pay interest, at the legal rate from the date a claim was  
11 received, where the claim was not paid within 30 days after receipt of properly  
12 executed proofs of loss.

13 k. Failing to obtain an HIV-related test consent form in a form prescribed by  
14 the Director and signed by the applicant prior to the performance of the test.

15 l. Failing to provide an applicant with a Notice of Insurance Information  
16 Practices.

17 m. Failing to require from an agent a signed statement as to whether or not  
18 such insurance will replace existing life insurance.

19 n. Failing, as the replacing insurer, to require from an agent a copy of all  
20 sales proposals used in his presentation.

21 o. Failing, as replacing insurer, to require from agents a Notice Regarding  
22 Replacement of Life Insurance signed by the applicant.

23 p. Failing, as replacing insurer, to provide a Policy Summary to applicants at  
24 or prior to delivery of the life insurance policy.

25 q. Failing to maintain claim files with all notes and work papers pertaining to

1 the claim in such detail that pertinent events and dates of such events can be  
2 reconstructed.

3 2. Within 90 days of the filed date of this Order, Conseco shall submit to the  
4 Arizona Department of Insurance, for approval, evidence that corrections have been  
5 implemented and communicated to the appropriate personnel regarding all items  
6 mentioned in Paragraph 1 of the Order section of this Consent Order. Evidence of  
7 corrective action and communication thereof includes, but is not limited to, memos,  
8 bulletins, E-mails, correspondence, procedures manuals, print screens, and training  
9 materials.

10 3. The Department shall be permitted, through authorized representatives, to  
11 verify that Conseco has complied with all provisions of this Order.

12 4. Conseco shall pay a civil penalty of \$17,500.00 to the Director for deposit in  
13 the State General Fund in accordance with A.R.S. §20-220(B). The civil penalty shall  
14 be provided to the Market Conduct Examinations Section of the Department prior to the  
15 filing of this Order.

16 5. The Report of Examination of the Market Conduct Affairs of Conseco Life  
17 Insurance Company as of December 20, 2000, including the letter submitted in  
18 response to the Report of Examination, shall be filed with the Department after the  
19 Director has filed this Order.

20 DATED at Phoenix, Arizona this 31<sup>st</sup> day of August, 2001.

21  
22   
23 **Charles R. Cohen**  
24 **Director of Insurance**  
25



1 **CONSENT TO ORDER**

2 1. Consecos Life Insurance Company has reviewed the foregoing Order.

3 2. Consecos Life Insurance Company admits the jurisdiction of the Director of  
4 Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the  
5 entry of the Conclusions of Law and Order.

6 3. Consecos Life Insurance Company is aware of the right to a hearing, at which  
7 it may be represented by counsel, present evidence, and cross-examine witnesses.  
8 Consecos Life Insurance Company irrevocably waives the right to such notice and  
9 hearing and to any court appeals related to this Order.

10 4. Consecos Life Insurance Company states that no promise of any kind or  
11 nature whatsoever was made to it to induce it to enter into this Consent Order and that  
12 it has entered into this Consent Order voluntarily.

13 5. Consecos Life Insurance Company acknowledges that the acceptance of this  
14 Order by the Director of the Arizona Department of Insurance is solely for the purpose  
15 of settling this matter and does not preclude any other agency or officer of this state or  
16 its subdivisions or any other person from instituting proceedings, whether civil, criminal,  
17 or administrative, as may be appropriate now or in the future.

18 6. Ronald L. Jackson, who holds the office of Assistant Secretary of Consecos  
19 Life Insurance Company is authorized to enter into this Order for it and on its behalf.

20 **CONSECO LIFE INSURANCE COMPANY**

21  
22 8/13/01

23 Date

24 By: 

1 COPY of the foregoing mailed/delivered  
this 31st day of August, 2001, to:

2  
3 Sarah Begley

4 Deputy Director

5 Mary Butterfield

6 Assistant Director

7 Consumer Affairs Division

8 Paul J. Hogan

9 Chief Market Conduct Examiner

10 Market Conduct Section

11 Deloris E. Williamson

12 Assistant Director

13 Rates & Regulations Division

14 Steve Ferguson

15 Assistant Director

16 Financial Affairs Division

17 Alexandra Shafer

18 Assistant Director

19 Life and Health Division

20 Nancy House

21 Chief Financial Examiner

22 Terry L. Cooper

23 Fraud Unit Chief

24  
25 DEPARTMENT OF INSURANCE

2910 North 44th Street, Second Floor

Phoenix, AZ 85018-7256

Michael A. Colliflower, Senior Vice President

Conseco Life Insurance Company

11815 N. Pennsylvania Street

Carmel, Indiana 46032

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